

Application S/N 10/797,729
Amendment Dated: October 16, 2006
Response to Office Action dated: May 31, 2006

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REMARKS/ARGUMENTS

Claims 1-5, 7, 9-13 and 15-19 remain pending in the application, as claims 6, 8 and 14 have been canceled without prejudice. In the Office Action, claims 1-19 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0222768 to Moore, et al. (Moore). Applicants have amended independent claims 1, 9, 16 and 18 to clarify that the charge termination point is at least partially based on a percentage of transmission time, a percentage of receive time or a percentage of standby time, each of which is associated with a mobile communications device. Similar subject matter was recited in canceled dependent claims 6 and 14.

Applicants admit that Moore describes observing the degree of degradation of the battery to produce a cycle life parameter. In particular, "[t]he cycle life parameter is a parameter indicative of the level of degradation of battery pack 10 over its life time, and may be determined by CPU 38 configured through software, as a function of (i) internal impedance and/or (ii) time or age of the battery pack; and/or (iii) the number of charge/discharge cycles the battery pack 10 has undergone or any combination thereof" (see paragraph 0029).

Applicants note, however, that Moore never discusses basing a charge termination point on transmission or reception usage or standby mode of a mobile device. Moore is merely focused on the degradation of the battery and has no interest in accommodating heavy use of a mobile device by providing a higher charge on the battery.

In view of the above, Applicants submit that independent claims 1, 9, 16 and 18 are patentable over the prior art. Applicants also believe that those claims that depend

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from these independent claims are patentable, both based on their dependencies on the independent claims and their patentability on their own. Reconsideration and withdrawal of the rejection of the claims is respectfully requested. Passing of this case is now believed to be in order, and a Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicants' attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

The Commissioner is hereby authorized to charge any necessary fee, or credit any overpayment, to Motorola, Inc. Deposit Account No. 50-2117.

Respectfully submitted,

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